

AFFIDAVIT
of
SEAN McDERMOTT
SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION

I, Sean McDermott, being first duly sworn, do depose and state that:

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI), and am assigned to the Jefferson City, Missouri office. I have been an SA with the FBI for approximately nineteen (19) years. In the course of my career, I have participated in numerous investigations concerning violations of Title 18, United States Code. I am currently assigned to criminal investigations involving child exploitation and child pornography. I have gained expertise in the conduct of such investigations through training in seminars and everyday work related to these types of investigations.

2. I am investigating violations of Title 18, United States Code, Sections 2251 and 2252, certain activities relating to material involving the sexual exploitation of minors, in the Western District of Missouri. I make this affidavit in support of an application for a search warrant for information contained in or associated within the Kik c/o MediaLab.AI Inc. (hereinafter Kik) account associated with the username **MPHELPS12**, stored, maintained, controlled, or operated by MediaLab.AI, a social networking company headquartered at 1237 7th Street, Santa Monica, California. The locations to be searched are particularly described in the following paragraphs and in Attachment A.

3. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Kik to disclose to the government records and other information in its possession pertaining to the subscriber or customer associated with the accounts, including the contents of communications.

4. Title 18, United States Code, Section 2256 defines “minor” as “any person under the age of eighteen years.” Section 2256 also defines “sexually explicit conduct” as including: (a)

genital-genital, oral-genital, anal-genital, and oral-anal sexual intercourse, whether between persons of the same or opposite sex; (b) bestiality; (c) masturbation; (d) sadistic or masochistic abuse; or (e) lascivious exhibition of the anus, genitals or pubic area of any person.

5. This affidavit is based upon information I have gained from my investigation, my training and experience, as well as information obtained from conversations with other law enforcement officers. Since this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that evidence of violations of Title 18, United States Code, Sections 2251 and 2252, are located within the Kik account associated with the username **MPHELPS12**. Based upon the following information, there is probable cause to believe that currently located within this account is electronically stored information that constitutes evidence, fruits and instrumentalities of knowingly transferring visual depictions of minors engaged in sexually explicit conduct, in violation of Title 18, United States Code, Sections 2251 and 2252.

6. On March 30, 2023, a FBI Task Force Officer (TFO) was acting in an online undercover (UC) capacity as part of the FBI Child Exploitation and Human Trafficking Task Force (CEHTTF) operating out of a satellite office in Washington, D.C. The UC was monitoring a public Kik¹ group known by the UC to include members actively involved in the distribution, possession, receipt and at times production of child exploitation material (CSAM).

7. On March 30 2023, the UC observed Kik user **MPHELPS12** had joined the group. The UC messaged **MPHELPS12**, "What's up mike, asl² and you can verify with me." **MPHELPS12** replied, "Hey 30 m usa" and then forwarded a photograph of an adult male wearing

¹ Kik is an instant messaging mobile application where one can transmit and receive messages, photos, and videos. Additional information about the Kik application is presented below.

² asl is chat room shorthand for age, sex and location.

an orange shirt seated next to prepubescent female holding a cup with a pink lid watching what appears to be a purple in color tablet. **MPHELPS12** advised the child was “3,” and they resided in Missouri. The UC asked **MPHELPS12**, “You play with yours?” and **MPHELPS12** responded, “Some in bath time.” **MPHELPS12** wrote he had been playing with the child for approximately a year.

8. On April 12, 2023, the UC observed **MPHELPS12** active within the same group. The UC messaged **MPHELPS12**, “How’s your cutie doing?” **MPHELPS12** sent the UC a photograph of what appears to be the same prepubescent female child wearing an orange shirt asleep on a blanket.

9. The UC and **MPHELPS12** discussed the current state of groups on Kik, and the UC asked, “You have any fun recently with yours?” **MPHELPS12** replied, “Ya she was stroking me yesterday.” The UC messaged back, “Mmmmm nice, did she do a good job?” and **MPHELPS12** reported, “Eh good enough.”

10. On April 17, 2023, **MPHELPS12** sent the UC a video of what appears to be a juvenile female having her mouth penetrated by an adult male’s erect penis. The UC subsequently messaged **MPHELPS12**, “Have you taken pics / vids of yours before? I love sharing with legit parents..” **MPHELPS12** replied, “Not really”, and then sent a photograph to the UC of a prepubescent female from the stomach down wearing a primarily pink shirt. The child’s underwear is pulled to the side by a finger, and her genitals are exposed to the camera.

11. An administrative subpoena request was served on Kik requesting subscriber information associated with username **MPHELPS12**. Information provided by Kik revealed this account was commonly accessed from IP address of 209.207.9.156, including on March 29, 2023 at 23:19:10 UTC.

12. Investigation identified IP address 209.207.9.156 was hosted by SuddenLink Communications. SuddenLink Communications identified the subscriber of IP address 209.207.9.156 on March 29, 2023 at 23:19:10 UTC. was Anthony Pitts Fugate, 8808 High Street, Lohman, Missouri.

13. A Missouri driver's license photograph of Anthony Pitts-Fugate showed he was consistent in appearance to the photograph of the adult male wearing an orange shirt that **MPHELPS12** sent to the UC on March 30, 2023.

14. On April 17, 2023, a black Dodge Ram pickup and a silver Chrysler minivan, both displaying Missouri license plates, were observed parked in the driveway at 8808 High Street, Lohman, Missouri. The license plate displayed on the Dodge Ram pickup was registered to Anthony D. Pitts-Fugate, and the license plate displayed on the Chrysler minivan was registered to Anthony Pitts Fugate and N.C.

15. On April 18, 2023, the FBI executed a search warrant issued by United States District Court in the Western District of Missouri (Case Number 23-SW-03025-WJE) at 8808 High Street, Lohman, Missouri. Evidence seized from this search warrant included a primarily pink shirt, and child's underwear; both consistent in appearance with the clothing worn by the child in the sexually explicit photograph **MPHELPS12** sent to the UC April 17, 2023. Furthermore, kitchen chairs at this residence were covered with a fabric consistent in color and pattern with the location where the child was seated in this photograph.

16. On April 17, 2023, an FBI SA served a preservation request to Kik for historical account subscriber information and content associated with the username **MPHELPS12**.

Jurisdiction and Authority to Issue Warrant

17. This Court has jurisdiction to issue the requested warrant because it is "a court of competent jurisdiction" as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A), &

(c)(1)(A). Specifically, the Court is “a district court of the United States . . . that has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i).

Background on Kik Messenger

18. Kik Messenger is an electronic messaging application for Apple iOS and Android devices that was acquired by MediaLab.AI Inc. in October of 2019. Once the application is downloaded and installed, the user is prompted to create an account and username. The user also creates a display name, which is a name that other users see when transmitting messages back and forth. Once the user has created an account, the user is able to locate other users via a search feature. While messaging, users can send each other text messages, images, and videos.

19. Users can find other others by using the search function or by adding usernames manually. Users can also search for groups. Kik Messenger is free to download and uses an existing wireless internet (Wi-Fi) connection or data plan to send and receive messages.

20. Kik users are also able to create chat groups with a limited number of individuals to communicate in a group setting and exchange text messages, images and videos. These groups are administered by the group creator who has the authority to remove and ban other users from the created group. Once the group is created, Kik users have the option of sharing a link to the group that includes all of their contacts or any other user. These groups are frequently created with a group name containing a hashtag (#) that is easily identifiable or searchable by keyword.

21. In general, social media companies like Kik ask each of their customers to provide certain information when registering for an account. This information can include the customer’s first and last name, date of birth, telephone number, and email address. Social media companies also may retain records of the length of service (including start date) and types of services utilized.

22. Kik retains images and videos and related items associated with the Kik Messenger application for 30 days, or longer upon receiving a preservation request from the government pursuant to 18 U.S.C. § 2703. Kik also may retain content data logs for a longer period of time.

23. According to Kik's Law Enforcement Guide, revised January 2021, Kik typically retains the following information:

- a. Basic subscriber data including account's first and last name, email address, and link to most current profile picture or background photo;
- b. Account creation data, device-related information, and user location information including IP address(es);
- c. Logs indicative of use, including: transactional chat logs, chat platform log, log of usernames added and blocked, group information log, group create log, group join log, group leave log, group transactional chat logs, group chat platform logs, and first chat platform log related to a content ID;
- d. Photographs and/or videos, and media files sent or received by the user for the last 30 days;
- e. Abuse reports;
- f. Log of all emails that have been associated with a username;

24. I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the warrant to require Kik to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

Conclusion

25. Based upon the foregoing, I assert that probable cause exists that within the Kik account associated with the username **MPHELPS12** is electronically stored information that constitutes evidence, fruits and instrumentalities of knowingly transferring visual depictions of minors engaged in sexually explicit conduct, in violation of Title 18, United States Code, Sections 2251 and 2252.

26. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant. The government will execute this warrant by serving it at Kik's Online Legal Request Portal. Because the warrant will be served online, where Kik will then compile the requested records at a time convenient to it, there exists reasonable cause to permit the execution of the requested warrant at any time in the day or night.

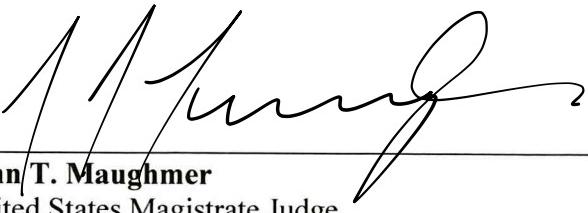
27. The facts set forth in this affidavit are true and correct to the best of my knowledge and belief.

Further, Affiant sayeth not.



Sean McDermott, Special Agent
Federal Bureau of Investigation

Attested to in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone or other reliable electronic means on this the 26th day of April, 2023.



John T. Maughmer
United States Magistrate Judge